

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

BRENDA COURTNEY

V.

OUTBACK STEAKHOUSE OF
FLORIDA, LLC

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§
§

C.A. NO. 4:21-CV-00139

JURY

DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendant Outback Steakhouse of Florida, LLC file its Notice of Removal because this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332.

I. Procedural Background.

1. Plaintiff Brenda Courtney filed the lawsuit numbered 342-322756-21 and styled *Brenda Courtney v. Outback Steakhouse of Florida, LLC*, in the 342nd Judicial District Court of Tarrant County, Texas (the "State Court Proceeding").

2. The Defendant files this Notice of Removal pursuant to 28 U.S.C. § 1446 to remove the State Proceeding from the 342nd Judicial District Court of Tarrant County, Texas to the United States District Court for the Northern District of Texas, Fort Worth Division.

3. Courtney initiated the State Court Proceeding by filing its Original Petition on January 8, 2021, complaining of the Defendant.

4. Courtney served the Defendant on January 13, 2021. Pursuant to 28 U.S.C. § 1446(b), the Defendant files this Notice of Removal within thirty days of receiving service of the summons and a copy of the initial pleading setting forth Courtney's claim for relief.

5. This case arises out of a premises liability claim against the Defendant in Tarrant County. Plaintiff contends that on June 1, 2019, she was an invitee of Defendant while at its restaurant located in Fort Worth, Texas. *See* Ex. A, Plaintiff's Orig. Pet. at 7 (Jan. 8, 2021) Plaintiff claims she slipped and fell on a liquid on the floor, which resulted in personal injuries. *Id.* The Defendant denies liability.

II. Complete Diversity Exists between Plaintiff and Outback.

6. Pursuant to 28 U.S.C. §1332(a), this case is removable to this Court on the basis of diversity jurisdiction.

7. Courtney as a citizen of the State of Texas. As stated in Plaintiff's Original Petition filed in the State Court Proceeding, Courtney is a resident of Texas.

8. The Defendant is a Florida limited liability company. The citizenship of an LLC is determined by the citizenship of all its members. *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 180 (5th Cir. 2008). The sole member of the Defendant is OSI Restaurant Partners, LLC. OSI Restaurant Partners, LLC is a Delaware limited liability company with its principal place of business in Florida. The sole member of OSI Restaurant Partners, LLC is OSI Holdco, Inc. OSI Holdco, Inc. is a Delaware corporation with its principal place of business located at 2202 N. West Shore Blvd., 5th Floor, Tampa, Florida 33607. Therefore, Outback is a citizen of Delaware and Florida for diversity jurisdiction. *See* 28 U.S.C. §1332(c)(1) ("a corporation shall be deemed to be a citizen of every State and foreign state

by which it has been incorporated and of the State or foreign state where it has its principal place of business”); *see also Hertz Corp. v. Friend*, 559 U.S. 77,80 (2010).

III. The Amount in Controversy Exceeds \$75,000.

9. It is facially apparent that an amount in excess of \$75,000 (exclusive of interest and costs) is in dispute. Plaintiff alleges she suffered severe physical injuries to her body, reasonable and necessary medical expenses, pain and suffering, mental anguish, loss of enjoyment of life, physical disfigurement, and impairment. Exhibit A at ¶ 23(a-e). Plaintiff seeks damages over \$250,000 but not more than \$1,000,000. *Id.* at ¶ 24. Thus, the \$75,000 amount in controversy component of diversity jurisdiction has been satisfied. 28 U.S.C. § 1332(a); 28 U.S.C. § 1446(c)(2).

IV. Venue.

10. Venue is proper in the Fort Worth Division of the Northern District of Texas under 28 U.S.C. § 1441(a) because this District and Division embrace Tarrant County, Texas, the place where the State Court Proceeding was pending before removal.

V. Matters Filed.

11. In accordance with 28 U.S.C. § 1441(a), copies of all process, pleadings, and orders served upon Courtney in the State Proceeding are attached to this Notice of Removal. *See* Index of Matters Filed.

12. Pursuant to 28 U.S.C. § 1446(d), the Defendant will promptly give written notice of the filing of this Notice of Removal to all parties and to the clerk of the 342rd Judicial District Court of Tarrant County, Texas.

VI. Prayer.

13. The Defendant respectfully requests that the State Court Proceeding be removed and placed on the Court's docket for further proceedings. The Defendant requests any additional relief to which it may be justly entitled.

Respectfully submitted,

LANZA LAW FIRM, P.C.

/s/ Nicholas J. Lanza with permission SKS

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**ATTORNEY FOR DEFENDANT OUTBACK
STEAKHOUSE OF FLORIDA, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was sent as described below on February 10, 2021:

Via CMRRR and ECF

Rian Butler
Rian Butler Law Firm
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/s/ Stewart K. Schmella

**NICHOLAS J. LANZA/
STEWART K. SCHMELLA**